

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

B & R SUPERMARKET, INC., d/b/a
MILAM'S MARKET, a Florida corporation,
et al., Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

v.

VISA, INC., a Delaware corporation, et al.,

Defendants.

X

: Case No. 1:17-cv-02738-MKB-JO
: **CLASS ACTION**
: **JOINT STATUS REPORT**

Conference Date: February 27, 2018

X

Plaintiffs B & R Supermarket, Inc. (d/b/a Milam's Market), Grove Liquors LLC, Strouk Group LLC (d/b/a Monsieur Marcel), and Palero Food Corp. and Cagueyes Food Corp. (d/b/a Fine Fare Supermarket) (collectively, "Plaintiffs") and defendants Mastercard International Inc. ("Mastercard"), Discover Financial Services ("Discover"), Visa Inc. and Visa U.S.A. Inc. (together, "Visa"), and American Express Company ("American Express") (collectively, "Defendants") respectfully submit this joint report in advance of the status conference scheduled for February 27, 2018.

The following matters are currently pending for the Court's consideration as of the date of this joint report.

Plaintiffs' Motion for Class Certification. Plaintiffs' Motion for Class Certification has been fully briefed, (Dkt. Nos. 433, 460, 463, 503, 588, 589, 619), and oral argument on the motion was held before Judge Brodie on November 29, 2017, (Dkt. No. 622). The parties are awaiting Judge Brodie's ruling.

Discover's Motion for Judgment Pursuant to Fed. R. Civ. Proc. 12(c). Discover's Rule 12(c) motion was fully briefed and filed on November 2, 2017. (Dkt. No. 611.) The next day, Judge Brodie referred the motion to Magistrate Judge Orenstein for report and recommendation. Oral argument on the motion was held before Magistrate Judge Orenstein on January 23, 2018. The parties are awaiting Judge Orenstein's report and recommendation.

Discover's Motion to Compel Arbitration. As set forth in previous Joint Status Reports, it is Discover's position that it is proper to wait until Plaintiff's Class Certification motion is decided before moving to compel arbitration against the approximately 1,200 putative class members with which Discover has valid, enforceable arbitration agreements.

Respectfully submitted this 20th day of February, 2018, by:

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CERTIFICATE OF SERVICE

I hereby certify that on February 20, 2018, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all registered parties and attorneys of record.

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